

**Solid Waste Financial Assurance Work Group  
October 7, 2011 Meeting Summary**

Participants

Dawn Cleary, GM  
Ken Diehn, NewPage Corporation (conference call)  
Stephanie Glysson, Republic Services  
Tom Horton, Waste Management (conference call)  
Ray Ilka, GM – SMCO  
Dan Kendall, Kent County DPW  
Becky Kocsis, DEQ  
Dennis Leonard, DTE Energy  
Richard Menard, Verso Paper (conference call)  
Richard Paaanen, Waste Management (conference call)  
Margie Ring, DEQ  
Cortney Schmidt, St. Mary's Cement (conference call)  
Kevin Somero, Waste Management  
Steve Sliver, DEQ  
Andy Such, MMA

Meeting Materials

- Meeting agenda
- Draft August 24, 2011, meeting summary.
- Corporate financial test comparison table

Discussion Points

- There was one minor revision made to the August 24 meeting summary.
- The DEQ polled other states regarding the Subtitle D financial test and asked whether there was any limit on how much financial assurance could be provided via the financial test and whether a firm that failed the test was able to establish alternate financial assurance. A limited number of states responded. All allow up to 100 percent of the required financial assurance to be demonstrated with the financial test. None had any experience where a firm that failed the financial test was unable to establish alternate financial assurance. The DEQ was encouraged to get a response from all Great Lakes States (only Ohio and Wisconsin had responded to the original request).
- The DEQ was also encouraged to investigate Tennessee's model for administering financial assurance requirements in the environmental programs, and to discuss that model with management to determine if it might be a more effective and efficient approach. (All financial assurance requirements are administered out of a single office in Tennessee rather than from each program area.)
- It was also suggested that DEQ pursue a national association, such as the Association of State and Territorial Solid Waste Management Officials, to evaluate and publish what other states are doing for financial assurance issues.

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- The comparison of financial test requirements under Part 111 (Subtitle C), Part 115 (Subtitle D), and Part 211 (Subtitle I) was discussed. The Part 111 test is the most stringent.
- Industry may be interested in using the Part 111 financial test if they could demonstrate 100 percent of the required financial assurance. Dennis Leonard will follow-up with DTE accounting staff to determine if they can meet the Part 111 financial test.
- Discussion of alternative financial mechanisms, and whether issuers of financial mechanisms should be required to meet minimal credit ratings or other criteria, was postponed until representatives of the insurers and financial institutions are present.
- Whether unlicensed facilities (waste utilization sites such as registered composting facilities, asphalt shingle recyclers, etc.) should be required to maintain financial assurance was discussed. The reasons for requiring financial assurance could include: the risk to taxpayers of having to clean up the sites; the competitive advantage they have over companies that want to invest in waste utilization processes (e.g., digesters) that would be subject to financial assurance requirements and greater regulation overall; and how financial assurance requirements can be used to incentivize proper management. It was also mentioned that a financial assurance requirement may be an economic barrier to some waste utilization practices. Additionally, the DEQ is not always aware of all waste utilization sites because they may not be required to notify or register with the DEQ. It may be more appropriate to focus on the materials that present the biggest problem, and establish a minimal bonding requirement (e.g., \$20,000).
- MMA is interested in financial assurance issues because of the changing relationship between its members and the financial institutions.
- The DEQ proposed to maintain the current perpetual care fund requirement with some minor changes as already discussed (e.g., timing of deposits). The work group has not been able to find an alternative that meets both the DEQ's needs for ready access to funds and industry's desire to free up the cash that is held in the accounts. Additionally, while it was originally thought that the PCF was unique to Michigan, it now appears that some states also require landfill operators to set aside funds into an account that is dedicated to cover closure and postclosure costs. For example, Wisconsin has a fee of \$7 per ton that is deposited into an account that landfill operators will not get back. Similarly, Iowa requires each landfill to maintain separate closure and postclosure accounts in addition to the financial assurance requirements under Subtitle D. Industry representatives with landfills in other states will check with those landfills to see what sort of PCFs may be required. Industry is concerned that the PCFs can be extremely burdensome and hopeful that we will come up with an alternative. The DEQ remains open to work group member proposals to address these issues.
- The next meeting will be scheduled with a Doodle poll.